

(b) If the Commission finds that conditions unduly impairing access of a U.S. flag vessel to ocean trade between foreign ports exist, any of the following actions may be taken:

(1) Imposition of equalizing fees or charges applied in the foreign trade of the United States;

(2) Limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(3)(i) Suspension, in whole or in part, of any or all tariffs filed with the Commission for carriage to or from United States ports, including the carrier's right to use any or all tariffs of conferences in U.S. trades of which it is a member for any period the Commission specifies, or until such time as unimpaired access is secured for U.S. flag carriers in the affected trade.

(ii) Acceptance or handling of cargo for carriage under a tariff that has been suspended, or after a common carrier's right to utilize that tariff has been suspended pursuant to this part, will subject a carrier to the imposition of a civil penalty as provided under the Act (46 U.S.C. app. 1712(b)(3)) of not more than \$50,000 per shipment; and

(4) Suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers;

(5) Imposition of a charge not to exceed \$1,000,000 per inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade;

(6) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to any vessel of a foreign carrier which is or whose government is identified as contributing to the conditions described in § 587.2 of this part;

(7) A request to the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier which is or whose gov-

ernment is identified as contributing to the conditions described in § 587.2 of this part to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; and

(8) Any other action the Commission finds necessary and appropriate to address conditions unduly impairing access of a U.S.-flag vessel to trade between foreign ports.

(c) If the Commission finds that conditions impairing access of a U.S. flag vessel to ocean trade between foreign ports has not yet occurred, and punitive sanctions are warranted, such sanctions will be imposed to become effective simultaneously with the implementation of the action that would unduly impair the access of a U.S. flag vessel.

(d)(1) All decisions will be published in the FEDERAL REGISTER.

(2) Decisions imposing sanctions, except where conditions warrant and for good cause, will become effective 30 days after the date of publication.

(e) Any party may file a petition to reconsider any decision under this part. Such a petition shall be served on all other parties to the proceeding and shall not, in and of itself, stay the effective date of the Commission action.

[49 FR 45406, Nov. 15, 1984, as amended at 54 FR 11532, Mar. 21, 1989]

§ 587.8 Submission of decision to the President.

Concurrently with the submission of any decision imposing sanctions to the FEDERAL REGISTER pursuant to § 587.7(d)(1), the Commission shall transmit that decision to the President of the United States who may, within ten days after receiving the decision, disapprove it if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

§ 587.9 Postponement, discontinuance, or suspension of action.

(a) The Commission may, on its own motion or upon a petition, postpone, discontinue, or suspend any action taken by it under the provisions of this

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part. Such a petition will be served on all other parties and will not, in and of itself, stay the effective date of Commission action.

(b) The Commission shall postpone, discontinue or suspend any action provided for in its final decision if so directed by the President for reasons of national defense or foreign policy of the United States as provided in § 587.8.

PART 588—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

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AUTHORITY: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a).

SOURCE: 54 FR 11533, Mar. 21, 1989, unless otherwise noted.

§ 588.1 Purpose.

It is the purpose of the regulations of this part to establish procedures to implement the Foreign Shipping Practices Act of 1988, which authorizes the Commission to take action against foreign carriers, whose practices or whose government's practices result in adverse conditions affecting the operations of United States carriers, which adverse conditions do not exist for those foreign carriers in the United States. The regulations of this part provide procedures for investigating such practices and for obtaining information relevant to the investigations, and also afford notice of the types of actions included among those that the Commission is authorized to take.

§ 588.2 Definitions.

For the purposes of this part:

(a) *Common carrier, marine terminal operator, non-vessel-operating common carrier, ocean common carrier, person, shipper, shippers' association, and United States* have the meanings given each

such term, respectively, in section 3 of the Shipping Act of 1984 (46 U.S.C. app. 1702);

(b) *Foreign carrier* means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(c) *Maritime services* means port-to-port carrier of cargo by the vessels operated by ocean common carriers;

(d) *Maritime-related services* means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(e) *United States carrier* means an ocean common carrier which operates vessels documented under the laws of the United States;

(f) *United States oceanborne trade* means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier;

(g) *Voyage* means an inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade. Each inbound or outbound movement constitutes a separate voyage.

§ 588.3 Scope.

The Commission shall take such action under this part as it considers necessary and appropriate when it determines that any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country, result in conditions that adversely affect the operations of United States carriers in United States oceanborne trade, and do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.